



புதுச்சேரி மாநில அரசிதழ்

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G. O. Rt. No. 112/Lab./AIL/T/2017,
Puducherry, dated 10th July 2017)

NOTIFICATION

Whereas, the Award in I.D. (L) No. 16/2013, dated 10-5-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of Sigma Pack, Mannadipet Commune, Puducherry and its workers Thiruvallargal D. Manikandan, A. Kuppusamy and K.R. Kumaravel, Puducherry over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G. O. Ms. No. 20/91/Lab./L., dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

E. VALLAVAN,
Commissioner of Labour-cum-
Additional Secretary to Government (Labour).

BEFORE THE INDUSTRIAL TRIBUNAL -CUM-
LABOUR COURT AT PUDUCHERRY

Present :Thiru G. THANENDRAN, B.COM., M.L.,
Presiding Officer.

Wednesday, the 10th day of May 2017.

I.D. (L) No. 16/2013

1. D. Manikandan,
2. A.Kuppusamy,
3. K.R.Kumaravel. . . Petitioners

Versus

The Managing Director,
M/s. Sigma Pack,
No.85/2, Thirukkanur Main Road,
Kodathur, Mutrampet Post,
Mannadipet Commune,
Puducherry. . . Respondent

This industrial dispute coming up before me for final hearing on 26-4-2017 in the presence of Thiru P. Manivannan, Counsel for the petitioners and Thiru G. Krishnan, Counsel for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

This industrial dispute has been referred by the Government as per the G. O. Rt. No. 23/AIL/Lab./J/2013, dated 26-2-2013 for adjudicating the following:

(a) Whether the dispute raised by Thiruvallargal D. Manikandan, A.Kuppusamy and K.R.Kumaravel against the management of M/s. Sigma Pack, Puducherry, over non-employment is justified or not?

(b) If justified, what relief the workmen are entitled to?

(c) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The averments in the claim petition filed by the petitioners are stated as follows:

(i) The first petitioner joined the service of the respondent company on 5-2-2000 and was confirmed on 1-9-2002 as an Operator. The second petitioner joined the service of the respondent company on 13-11-2001 and was confirmed on 1-3-2003 as Fork Lift Operator. The third petitioner joined in service on 17-4-2002 and was confirmed on 1-10-2004 as an Operator. The respondent company acted against the right and the welfare of the workers without giving rightful salary and these petitioners have approached the Conciliation Officer through their Union on 22-11-2010 and 24-11-2010 and the settlement was arrived in between the respondent company and their Union on 27-4-2011 and as per the settlement the company agreed for yearly increments and allowances from 1-11-2010 to 30-11-2013 for three years and the company from January, 2012 onwards individually threatened and insisted the workers that they intend to close down the company in the month of March, 2012 to evade the taxes from the Government and insisted voluntary resignation from the workers and nearly 50 workers put their signature in the blank papers, the respondent company will be closed down and restarted in one month assured by them.

(ii) The respondent company never given any lock out or closure notice as per law to any workmen including the petitioners till 4-5-2012 and the respondent illegally made the workers to resign

their job and sheds crocodile tears for running the company and illegally try to close down the company. The management threatened the petitioners that they will be transferred if, they do not accept for resignation and therefore, the petitioners filed an individual complaint on 4-5-2012 and requested the Labour Officer (Conciliation) to pass an order to the respondent company to provide employment to the petitioners till the lawful closure and on 21-5-2012, the conciliation done before the Conciliation Officer on 23-5-2012 and conciliation initiated wherein the petitioners requested employment till lawful closure of the company and conciliation proceedings adjourned to 26-6-2012. While the petitioners went for work as usual on 11-6-2012 the management not allowed to enter into the company and that they have close down the factory permanently. The respondent company sent a letter on 11-6-2012 the notice of termination on account of closure on 7-6-2012 in person on 9-6-2012 at about 4.30 p.m. Further, the respondent company also enclosed a cheque bearing No. 226931, dated 11-6-2012 for ₹ 75,357 to the 1st petitioner, a cheque bearing No. 226933, dated 11-6-2012 for ₹ 69,525 to the 2nd petitioner, a cheque bearing No. 226932, dated 11-6-2012 for ₹ 60,803 to the 3rd petitioner towards the petitioners full and final settlement of accounts. The petitioners were served with the letter, dated 11-6-2012 and the same was vehemently denied by the petitioners by their reply letter, dated 21-6-2012. No notice of termination on account of closure, dated 7-6-2012 was tendered to the petitioners at any point of time in person and further, no notice were annexed with the letter, dated 11-6-2012. Since, the conciliation proceeding were pending before the Labour Officer (Conciliation), Puducherry in No. 1203, 1204, 1205/2012/LO(C)/All the closure of the respondent company is most illegal. It deems to be a lockout which is also unlawful.

(iii) As per the Industrial Disputes Act, the respondent company shall serve at least two months or three months before the date on which the intended closure is to become effective, a notice, in the prescribed manner, on the appropriate Government stating clearly the reason the intended closure of the company, but, the respondent company never stick on to the provisions contemplated under the Industrial Disputes Act. The respondent company cheated the workers by illegal closure and the same is deemed to be a lock out and while pending conciliation proceedings, the

respondent company made a full and final settlement on their accord is illegal and had violated the provisions under the Industrial Disputes Act, in order to appoint a new labour or workers to run a company in another name to evade the tax from the Government and the permanent closure of the company is the drama set up by the respondent company and hence, the petitioners are entitled for back wages and other benefits. The petitioners individually sent a reply, dated 21-6-2012 by stating the above facts through R.P.A.D to the respondent company and they will return back the cheques in the presence of the Conciliation Officer and the said reply letter was acknowledged by the respondent company on 22-6-2012.

(iv) A cheque sent by the respondent management to the petitioners were handed over to Mr. S. Giridharan (Commercial Manager) in person on 26-6-2012 in conciliation proceedings, but, he refused to receive the same. Thereafter, the petitioners are constrained to send back the abovesaid original cheques to the respondent company by covering letter, dated 27-6-2012 through R.P.A.D. and the same was acknowledged by the respondent company. The petitioners insisted the Labour Officer (Conciliation), Puducherry for employment in the respondent company since, the closure is illegal one. The petitioners never proposed for any full and final settlement. But, the respondent company was very much particular for full final settlement and they proposed for a sum of ₹ 1,83,518.54, ₹ 1,69,925.00 and ₹ 1,44,418.38 to the petitioners 1 to 3 respectively. Since, the respondent company does not come forward to provide employment to the petitioners, they insisted to close down the conciliation proceedings and to refer the matter to this Hon'ble Court for proper consideration and adjudication.

(v) The 1st petitioner was served with another notice of enquiry/conciliation, dated 26-9-2012 to appear before the Labour Officer (Conciliation), Puducherry on 3-10-2012 at 11.00 a.m. for amicable settlement. The petitioners appeared before the Labour Officer (Conciliation), Puducherry and they stated their inability that they are very particular about their employment and they never insisted for any full and final settlement. Therefore, the petitioners requested for close down the conciliation and to refer the matter to this Hon'ble Court. The Labour Officer (Conciliation), Puducherry failed to investigate the dispute and she

helped the respondent company knowing fully that closure of the respondent company is unlawful. The Labour Officer (Conciliation), Puducherry passed a report on failure of conciliation, dated 22-1-2013 and the same was intimated to the petitioners through registered post. The petitioners denied the each and every allegation levelled against the petitioners by the Labour Officer (Conciliation), Puducherry in the abovesaid report on failure and the petitioners filed RTI Application before the Public Information Officer, Labour Department, Puducherry, dated 24-9-2012 and sought for the information regarding respondent company's closure notice, permission given by the Government to the closure notice, returns, *etc.*. The said application was duly acknowledged by the Public Information Officer, Labour Department, Puducherry on 25-9-2012. The Public Information Officer has furnished the information to the petitioners that no permission was granted by the Government to close down the respondent company and therefore, the closure of the company is highly illegal.

(vi) The first petitioner was furnished with ESI Card by the respondent company and he took treatment before the ESI, Dispensary, Gandhi Nagar, Puducherry even after the illegal closure. If, the respondent company is closed down, the insurance to the worker would have been terminated. This shows that the respondent company is playing fraud upon the workers and the Government. The respondent company's management has to be penalized by initiating criminal action for the illegal closure of the company. The respondent company made an illegal closure, when there was a settlement exist in force from 1-12-2010 to 30-11-2013 in between the respondent company and the abovesaid two unions on 27-4-2011 (No. 13/2011/Labour Officer (Conciliation)/AIL, dated 27-4-2011), when the conciliation proceedings were pending before the Labour Officer (Conciliation), Puducherry in Nos. 1203, 1204, 1205/2012/LO(C). All the closure of the respondent company is most illegal.

3. The averments in the counter filed by the respondent are as follows:-

(i) M/s. SIGMAPACK was carrying on the business of manufacturing Corrugated Card Board Boxes and unfortunately a steep rise in cost of production, cut throat competitive market situation,

deliberate non-cooperation of the workmen resulting in under utilization of the installed capacity and heavy drop in production have badly affected the viability of the company making the operation of the factory almost impossible. The *bona fide* efforts made by the management for tiding over the difficulties did not yield any fruitful results as the company had become technically infeasible and economically not viable and realizing the adverse conditions prevailing in the factory except few all the other workmen have resigned and made full and final settlement of their accounts voluntarily. All these factors have created a situation whereby continuing with the operation of the factory had become impracticable and the management was constrained to take the painful decision of closing the factory wholly and permanently with effect from 11-6-2012.

(ii) The notice of closure with statement of reason for closure was displayed in the notice-board of the factory on 7-6-2011 itself and the workmen were also tendered with a copy of the same and as they have refused to receive the notice the respondent management has sent the same along with the cheque towards terminal benefits including closure compensation to the residential address of the workmen and on the date of closure only four workmen *i.e.*, the petitioners and one Selvi were on the rolls and all of them have received the notice with cheque and subsequently, the petitioners have returned the cheque and raised an industrial dispute before the Conciliation Authority. The said Selvi had made full and final settlement of her account with the respondent company and in the course of conciliation proceedings, the petitioners have accepted the closure declared by the management and came up with a claim of 90 days closure compensation for every completed year of service including Gratuity and other legal dues and thereafter, the management had put forth a proposal in respect of the full and final settlement amount but, the petitioners have insisted for an additional amount of ₹ 10,000 and after negotiation both sides have mutually agreed for payment of a sum of ₹ 7,500 in addition to the said proposed full and final settlement. When, the conciliation proceedings was posted for signing settlement the petitioners made a turn around and insisted for employment in case the management restarts the company in future and hence, the conciliation ended in a failure on 1-8-2012.

(iii) Even though the conciliation failed, the management made *bona fide* efforts to settle the dispute amicably by sending a letter, dated 17-9-2012 to the Conciliation Authority for reopening the industrial dispute with an offer to provide employment to the petitioners in case of restarting of the respondent company in future but, the petitioners have not shown much interest in further conciliation and finally came with a representation that they were not willing for settlement and again insisted for recording failure of conciliation and due to their intransigent attitude, the authority had no other alternative than to conclude the industrial dispute with a failure note. The respondent fully co-operated in the conciliation proceedings and were looking forward to amicably settle the dispute. It was only the petitioners who tried to browbeat the respondent in accepting their unlawful demands and for the failure of the conciliation proceedings before the Authorities, the petitioners alone to be blamed for the adamant and indifferent attitude.

(iv) The number of workmen in the respondent factory on the date of closure was four only and no permission is required for effecting closure. Neither the provisions of 25 (O) nor 25 (FFA) would be attracted to the facts of the present case. The petitioners were offered their due compensation, and therefore, cannot question the closure of the respondent factory. As such there is no violation of any provision of the Industrial Disputes Act or any other laws. The closure declared by the respondent is legal and in accordance with the provisions of law and no ulterior motive or *mala fide* intention can be attributed to respondent's decision of closing down the factory. The closure is complete and not mere pretence or lock out as alleged by the petitioners. The respondent factory was closed wholly and permanently from 11-6-2012 and no manufacturing activities of any nature whatsoever was carried out in the respondent factory on and from the date of closure. The respondent has also complied with the legal obligations as contemplated under the provisions of the Industrial Disputes Act, 1947 towards permanent closure and no ulterior motive or *mala fide* intention can be attributed to respondent's decision of closing down the factory. The closure of the respondent factory was *bona fide*, genuine and real and the petitioners are not entitled for any relief other than the statutory compensation for closure as contemplated under the provisions of the Industrial Disputes Act, 1947 which was already offered to them by the respondent management.

4. In the course of enquiry, on the side of the petitioner PW.1 to PW.4 was examined and Ex.P1 to Ex.P46 were marked and on the side of the respondent RW.1 was examined and Ex.R1 to Ex.R15 were marked. Argument Heard. The learned Counsel for the respondent has filed a written argument and relied upon the Judgment reported in CDJ 1969 SC 434, M/s. Tatanagar Foundry Company Limited Vs. Their workmen, wherein the Hon'ble Supreme Court of India has been held that,

“In the present case the totality of facts and circumstances would lead to the conclusion that the undertaking at Jamshedpur was closed down completely and was a final and irrevocable termination of the business itself.....It is now well established that in the case of a closure the employer does not merely close down the place of business but, he closes the business finally and irrevocably. The closure has to be genuine and *bona fide* in the sense that it should be a closure in fact and not a mere pretence of closure The motive behind the closure is immaterial and what is to be seen is whether it an effective one..... The result, therefore, is that the workmen are entitled to compensation under the main clause of S. 25FFF of the Industrial Disputes Act, 1947”.

The learned Counsel also relied upon the Judgment reported in CDJ 2001 BHC 0765, Azad Kamgar Union Vs. Metagraphs Private Limited, wherein the Hon'ble High Court of India has been held that,

“It has been laid down by this Court in a series of decisions that it is not for Industrial Tribunals to enquire into the motive to find out whether the closure is justified or not.....the Head Note of the Judgment : Held : The interpretation that notice under S.25-FFFa is not a condition precedent for closure of an undertaking gets support from the language of S.25-F which lays down the condition precedent for retrenchment. S.25-(sic) of the Act which was inserted with effect from 27-10-1981 also supports the above interpretation. This section gives an indication in regard to legal position prior to its incorporation. Prior to insertion of S.25-O, the only requirement for closure was contained in S.25:FFA which does not require an employer to apply for permission of the appropriate Government to close down its undertaking. What is required in that case is only to give sixty days notice to appropriate Government of the employer's intention to close down an undertaking. No consequence of

failure to give such a notice has been set out in S.25-FFA as has been done in sub-section (7) of S.25-O of the Act. This distinction in these two sections (S.25-FFA and S.25-O as applicable in Maharashtra) is perceptible and material. Unlike S.25-O, the requirements of S.25-FFA are not mandatory. The power of the employer to close down an undertaking is not subject to prior permission of the appropriate Government. It simply requires the employer to give 60 days notice of the intended closure to the appropriate Government. Failure to do so would not render the closure illegal from its inception. It may render the employer liable to pay wages of 60 days to the workman. Non-compliance with the requirements of this section therefore, cannot be equated with non-fulfilment of a condition precedent to the passing of an order.....it is now well established that failure to comply with the provisions of S.25FFA of the Act does not make closure illegal or [est.... It is on record that the respondents had offered one] non-months wages *in lieu of* notice and the closure compensation in accordance with the provisions of S. 25-FFA of the Act. The respondents cannot be blamed if, the workmen refused to accept the dues”.

5. The point for consideration:

Whether the dispute raised by the petitioners against the management of the respondent over non-employment is justified or not and if justified, for what relief the petitioners are entitled to ?

6. From the pleadings of the petitioners and the respondent, it is clear that these petitioners had been in service in the respondent establishment and the respondent establishment was closed down the factory in the month of March, 2012 and some of the employees have given voluntary resignation from the service and some of the employees have settled amicably with the respondent establishment and these petitioners have raised the industrial dispute before the Conciliation Officer on 4-5-2012 and the conciliation was initiated on 23-5-2012 and the conciliation was failed and this Industrial Tribunal has been referred to this Court for adjudication.

7. In order to establish their case, the petitioners have examined the first petitioner as PW.1, second petitioner as PW.2, third petitioner as PW.3 and the co-worker one Ravi who was in service at the respondent company as PW.4 and through them Ex.P1 to Ex.P44 were marked. PW.1 to PW.3 have stated in their evidence that they have been in service of the

respondent establishment and their service have been confirmed by the respondent establishment and from January, 2012, the respondent management has threatened them that they have been intend to close down the company in the March, 2012 and insisted voluntary resignation from the workers and only 50 workers put their signature in the blank papers and got amicable settlement from the respondent company on belief that the respondent company would be close down and restarted in one month as assured by them and the management had illegally made the workers to resign their jobs and illegally trying to close down the company against the principles of natural justice and the labour welfare and these petitioners were insisted and threatened for voluntary resignation from the service and they have been invited for settlement talks but, no settlement was arrived and hence, these petitioners have made a legal complaint on 4-5-2012 requested the Labour Officer (Conciliation) to pass an order to the respondent to provide employment and the respondent company has sent a letter, dated 11-6-2012 stating that the respondent company has given a notice of termination on account of closure, dated 7-6-2012 and cheques for ₹ 75,357, ₹ 69,525 and ₹ 69,803 were sent to the petitioners by the respondent company along with the above notice which was returned by the petitioners along with the reply on 21-6-2012 and no notice of termination on account of closure on 7-6-2012 was tendered to the petitioners at any point of time in person and no such notice was enclosed with the letter, dated 11-6-2012 and the respondent has not served any notice prior to the notice for closure regarding intention to close the establishment required under the Industrial Disputes Act and that the closure is illegal and that therefore, they are entitled for reinstatement with full back wages and other benefits.

8. Apart from the oral evidence of the petitioners, the petitioners have exhibited the confirmation, letters issued by the respondent company to the petitioners 1 to 3 as Ex.P1, Ex.P18 and Ex.P32 respectively, the copies of the Identity Card of the petitioners 1 to 3 as Ex.P2, Ex.P19 and Ex.P33 respectively, the Settlement (agreement) arrived at between the respondent company and Pack Pattali Union & Sigma Pack Labour Union, dated 27-4-2011 as Ex.P3, the copy of the complaint letters given by the petitioners 1 to 3 to the Labour Officer (Conciliation), Puducherry, dated 4-5-2012 as Ex.P4, Ex.P20 and Ex.P34 respectively, the notice of enquiry/conciliation issued by the Labour Officer (Conciliation), Puducherry to the petitioners 1 and 2, dated 21-5-2012 as Ex.P5 and Ex.P21 respectively, the letters sent

by the respondent company to the petitioners 1 to 3, dated 11-6-2012 as Ex.P6, Ex.P22 and Ex.P35 respectively, the copy of the reply letters, dated 21-6-2012 sent by the petitioners 1 to 3 to the respondent company's letter, dated 11-6-2012 as Ex.P7, Ex.P23 and Ex.P36 respectively, the acknowledgement cards acknowledged by the respondent company, dated 22-6-2012 as Ex.P8, Ex.P24 and Ex.P37 respectively, the copy of the letters sent by the petitioners 1 to 3 to the respondent company, dated 27-6-2012 as Ex.P9, Ex.P25 and Ex.P38 respectively, the acknowledgment card acknowledged by the respondent company as Ex.P10, Ex.P26 and Ex.P39 respectively, the notice of enquiry/conciliation issued by the Labour Officer (Conciliation), Puducherry to the 1st petitioner, dated 26-9-2012 as Ex.P11, the copy of the letters sent by the petitioners 1 to 3 to the PIO, Labour Department, Puducherry, dated 24-9-2012 as Ex.P12, Ex.P27 and Ex.P40 respectively, the acknowledgment cards acknowledged by the PIO, Labour Department, Puducherry, dated 25-9-2012 as Ex.P13, Ex.P28 and Ex.P41 respectively, the information letters furnished by the PIO, Labour Department, Puducherry to the petitioners 1 to 3, dated 18-10-2012 as Ex.P14, Ex.P29 and Ex.P42 respectively, the conciliation failure reports issued by the Labour Officer (Conciliation), Puducherry, addressed to the petitioners 1 to 3, dated 22-1-2012 as Ex.P15, Ex.P30 and Ex.P43 respectively, the ESI medical treatment receipt (certificate), dated 25-6-2012, 1-9-2012, 11-1-2013, 18-1-2013, 8-8-2013 (5 series) as Ex.P16, the pay slip of the 1st petitioner for the month of February 2012 as Ex.P17, Pay Slip of the petitioners 2 and 3 for the month of March, 2012 as Ex.P31 and Ex.P44 respectively, RTI application in FORM-I, dated 23-9-2014 addressed to the Commercial Tax Officer-IAC, Commercial Taxes Department, Puducherry by the 1st petitioner as Ex.P45, Supply of information in FORM-3, dated 7-10-2014 by the Commercial Tax Officer-IAC, Commercial Taxes Department, Puducherry to the 1st petitioner as Ex.P46.

9. These exhibits would go to show that these petitioners are the employees of the respondent establishment and their services have been confirmed and that there was settlement arrived at between the union and the respondent establishment and these petitioners have made representation before the Conciliation Officer and the notice was sent to the petitioners as well as the respondent establishment and that there was some conciliation and the respondent management has issued a notice to the petitioners on 11-6-2012 stating that on account of closure, dated

7-6-2012 the petitioners were tendered to receive the compensation which was refused to receive by the petitioner and a cheque for ₹ 75,354, ₹ 69,525 and ₹ 69,803 were sent along with the notice towards full and final settlement on account of the closure, for which the petitioner have sent a reply notice on 24-6-2012 stating their objection for the final settlement and sent another letter, dated 27-6-2012 and have returned the original cheque to the respondent management.

10. The main contention of the respondent management is that the Government has made a reference to adjudicate the dispute raised by the petitioners only over the non-employment of the petitioners and dispute over the closure was not referred and the claim of the petitioners challenging the closure of the establishment is beyond the scope of the reference and the petitioner cannot seek adjudication of the dispute which was not actually referred by the Government and another contention of the respondent is that the closure was done according to the Industrial Disputes Act and the respondent establishment was closed with effect from 11-6-2012 due to the steep rise in cost of production, cut throat competitive market situation, deliberate non cooperation of the workmen and heavy drop in production and even after the *bona fide* efforts taken by the management for tiding over the difficulties did not yield any fruitful results as the company had become technically infeasible and economically not viable and realizing the adverse conditions prevailing in the factory except few all the other workmen have resigned and made full and final settlement of their accounts voluntarily and before the closure on 7-6-2012 itself the notice of closure with statement of reason for closure was displayed in the notice-board of the factory on 7-6-2012 and the workmen were also tendered with the copy of the same and the workmen have refused to receive the notice the respondent management has sent the same along with the cheque towards terminal benefits including closure compensation to the residential address of the workmen and that therefore, the closure is a valid one and the further contention of the respondent is that the petitioner are not entitled for the order of reinstatement since the factory was closed wholly and permanently from 11-6-2012 and no manufacturing activities was carried out in the respondent factory on and from the date of closure.

11. In order to prove the same, the respondent has examined RW.1 and exhibits Ex.R1 to Ex.P15 were marked. The respondent has exhibited the closure notice displayed in the respondent factory on 7-6-2012

as Ex.R1, the letter of intimation of closure sent to the Secretary (Labour), Puducherry on 7-6-2012 as Ex.R2, the letter sent to the petitioners 1 to 3 as Ex.R3, Ex.R5 and Ex.R7 respectively and the acknowledgement signed by the petitioners 1 to 3 as Ex.R4, Ex.R6 and Ex.R8 respectively, the letter sent by the petitioners 1 to 3 returning the cheque as Ex.R9 to Ex.11 respectively, the conciliation report as Ex.R12, the copy of the letter sent to the Commercial Taxes Department as Ex.R13, the copy of the letter sent to the Chief Inspector of Factories as Ex.R14 and the copy of the letter sent to the Directorate of Industries and Commerce as Ex.R15.

12. It is evident from Ex.R12 - the failure report of the Conciliation Officer that the respondent management has made a proposal for full and final settlement amount to an extent of ₹ 1,83,518.54, ₹ 1,69,925.00 and ₹ 44,418.38 respectively and these petitioners have insisted for ₹ 10,000 in addition to the abovesaid amount, for which the respondent management has accepted and agreed to pay ₹ 7,500 in addition to the proposed full and final settlement and both the parties have agreed for the same and finally when the conciliation was posted for signing of settlement, the petitioners have insisted for employment in case, the management restarts the company in future, for which the management did not, accepted and that therefore, the conciliation was failed and even after the failure of conciliation, the management requested the Conciliation Officer to reopen the industrial dispute and agreed to the claim made by the petitioners in respect of providing employment to the petitioners when they restart the company once again and the Conciliation Officer also restarted the ID and petitioners were called upon and the petitioners did not show much interest in further conciliating the issue and they are not willing for settlement and insisted to send the failure report to the Government and that therefore, the conciliation was failed and the matter has been recommended for adjudication by the Conciliation Officer to the Government, Ex.R12 also would reveal the fact that though the management has agreed to the claim made by the petitioners, the petitioners insisted to send the failure report to the Government and only on the request of the petitioner the failure report was sent to the Government.

13. The other documents would also reveal the fact that the respondent management has sent a closure notice to the Government and to the petitioners and the same was received by the petitioners and the

respondent also sent a cheque for full and final settlement to the petitioners and the respondent management has sent a letter to the Commercial Taxes Department, Chief Inspector of Factories and Directorate of Industries and Commerce regarding the closure of the factory. Particularly Ex.R13 to Ex.R15 would go to show that the respondent management has stated that due to the administrative and provisional issues they are not in a position to run the factory and they have closed the factory permanently from 11-6-2012 and furthermore, it would evident that the respondent management has already intimated the closure on 7-6-2012 to the Chief Inspector of Factories and to the Directorate of Industries and Commerce. Particularly Ex.R1 would evident that the respondent management has issued a closure of notice on 7-6-2012 to the workmen of the factory that they are going to close the factory wholly and permanently with effect from 7-6-2012 for the reasons explained in the annexure displayed in the notice-board along with the notice of closure and they have stated the service of workmen are not required from the date of closure and also has been assured by the respondent management in the notice would be paid pay and compensation as required by and provisions under the Industrial Disputes Act.

14. It is the case of the respondent management that they have closed down the factory from 11-6-2012 by issuing a closure notice on 7-6-2012. But, it is the case of the petitioners that the respondent management has closed the factory illegally without following the procedure to be adopted by the management to close the factory under the Industrial Disputes Act and it reveal from the letters given by the petitioners which is exhibited as Ex.P7, Ex.P23 and Ex.P36 that the factory has been closed on 11-6-2012 and it is alleged in the letters that the respondent management has not followed the procedure for closure under the provisions of Industrial Disputes Act. The letter runs as follows:

“எனக்கு வந்த பதிவுத்தபாலில் 11-6-2012 தேதியிட்ட கடிதம் மற்றும் ஸ். 75.357-க்கான கார்ப்பரேஷன் பேங்க் காசோலை (2269312) மட்டுமே இருந்தது. வேறு எந்த ஆவணமும் அதில் இணைக்கப்படவில்லை.

புதுச்சேரி தொழிலாளர் சமரச அதிகாரி முன்பு தாவா (No. 1203/2012/LO(C)/AIL) நிறுவனத்தில் இருக்கும்போது, சிக்மா பேக் நிறுவனத்தை மூடியது சட்டப்படி செல்லாது. மேலும், மேற்படி சமரச அதிகாரி முன்பு வரும் 26-6-2012 அன்று சமரச பேச்சுவார்த்தை உள்ளது. எனவே அதனை Closure என கருத முடியாது. அது கதவடைப்பு (Lock out)

மட்டுமே. மேலும், எனக்கும் என் சக தொழிலாளர்களுக்கும் நிறுவனத்தை நிரந்தரமாக மூடுவதற்கு சட்டப்படி எழுத்துபூர்வமான இரண்டு மாத முன்னறிவிப்பு கொடுக்கப்படவில்லை. மேலும், அரசாங்கத்திற்கு சட்டப்படி நிறுவனத்தை நிரந்தரமாக மூடுவதற்கு எழுதி கொடுக்கப்பட்ட படிவத்தின் நகலை கம்பெனியில் முறையாக ஒட்டப்படவில்லை. மேலும், எங்களுக்கு அப்படிவத்தின் நகலும் கொடுக்கப்படவில்லை. இது சட்டத்திற்கு புறம்பானது. அப்படி அரசாங்கத்திற்கு இரண்டு மாத நோட்டீஸ் கொடுத்ததாகவும் எமக்கு தகவல் இல்லை. இது முற்றிலும் தொழிலாளர்கள் நலனுக்கு எதிரானது. எனவே கம்பெனியின் Closure சட்டப்படி செல்லாது என்பது மட்டுமல்லாது மூடுதல் என்ற பெயரில் வெறும் கதவடைப்பு செய்து தொழிலாளர்களை ஏமாற்றுகிறீர்கள் என்பதே உண்மை.

மேலும், எனக்கு எந்த ஒரு கணக்கீட்டு பட்டியல் இல்லாமல் தாங்களாகவே ஒரு தொகையை என்னுடைய Full and Final Settlement என்று கூறுவதை நான் வன்மையாக மறுக்கிறேன். புதுச்சேரி தொழிலாளர்கள் சமரச அதிகாரியிடம் தாவா நிலுவையில் இருக்கும் போது எனக்கு இது போல் Settlement செய்தது சட்டப்படி செல்லாது.

தாங்கள் கம்பெனியை Permanent Closure செய்தது சட்டத்திற்கு புறம்பானது”.

The above recital of the letter would go to show that the respondent has closed the factory on 11-6-2012 but, it has not been accepted by the petitioners since the respondent management has not followed the procedure adopted under the Industrial Disputes Act and it is also further reveal from the above letters-Ex.P7, Ex.P23 and Ex.P36 that the respondent management has sent a cheque to settle the amount to the petitioners and the same was returned by these petitioners. The above letter would go to show that the respondent management has closed the factory on 11-6-2012 and so far, even till now the respondent management has not started the factory and it is learnt from other documents Ex.R12 to Ex.R15, the respondent management have intimated the closure to the Directorate of Industries and Commerce and Chief Inspector of factories and therefore, it is clear that the respondent management has closed the factory and so far they have not restarted the same till now.

15. Admittedly, the respondent management has not issued a statutory 60 days notice as per S.25FFA of the Act in the prescribed manner on the appropriate Government stating its intention to close down the factory. Since, the respondent management has closed the factory without getting prior permission from the Government and without following the procedure as laid down u/s. 25F and 25FFF of the Industrial Disputes

Act, it is clear that the respondent management has closed down the establishment without following the procedure as stated above and hence, the closure of the factory by the management is illegal by which the petitioners have become unemployed and that therefore, the dispute raised by the petitioners over the non-employment is justified.

16. Though the closure might be illegal one, the respondent management cannot be compelled to reinstate them since, it is impossible to reinstate the petitioners by the respondent management in the respondent factory as it was closed from 11-6-2012 Since, the respondent management has not restarted his factory, they cannot reinstate the petitioners in the factory as claimed by the petitioners and the petitioners are not entitled for the order of reinstatement as claimed by the petitioners. On this aspect, the evidence of PW.1 to PW.3 are perused and the evidence runs as follows:

“11-6-2012-க்கு பிறகு கம்பெனியில் உற்பத்தி எதுவும் செய்யப்படவில்லை. தொழிற்சாலை திடீரென மூடப்படுவதற்கு, அரசாங்கத்திடம் அறிவிப்பு கொடுத்திருக்க வேண்டும் அல்லது அரசாங்கத்திடம் அனுமதியும் பெற வேண்டும் என்று சொன்னேன். 11-6-2012 அன்று எந்த காரணத்தினால் தொழிற்சாலை மூடப்பட்டது என்று அறிவிப்பு பலகையில் விபரம் எழுதினர் என்றால் சரியல்ல. மேற்கூறிய விபரம் எனக்கு தெரியும் என்று வழக்கிற்காக பொய்யாக சாட்சியம் அளிக்கிறேன் என்றால் சரியல்ல. ஆலை மூடியதற்கான காரணம் எழுதிய அறிவிப்பின் பிறகு எங்களுடைய கணக்கை முடித்து, அதை DD-யாக வீட்டிற்கு அனுப்பினர் என்றால் சரிதான். அந்த DD-வீட்டு முகவரிக்கு வந்தது, அதை நான் பெற்றுக்கொண்டேன், அதில் காசோலையும், கடிதமும் இருந்தது. அந்த கடிதத்தில் கம்பெனி மூடப்பட்ட விபரம் எழுதப்பட்டிருந்தது. மற்ற மனுதாரர்களும் அவர்களுக்கு வந்த காசோலையை பெற்றுக்கொண்டனர். அந்த காசோலையை Labour Officer-க்கு மூலம் கொடுத்தோம், அவர்கள் அதை வாங்க மறுத்ததால் அதை பதிவு தபாலில் திருப்பி அனுப்பினோம். நாங்கள் வேலை வேண்டும் என்று கேட்டு தான் காசோலையை திருப்பி அனுப்பினோம். தொழிற்சாலை நடக்கும் காலத்தில் இரண்டு தொழிற்சங்கங்கள் இருந்தது. அந்த தொழிற்சங்கத்தோடு சம்பள ஒப்பந்தமும் நிர்வாகம் போட்டிருந்தது. திடீரென அறிவிப்பு இல்லாமல் ஆலையை மூடியதால், அதை ஆட்சேபிக்கிறோம். ஆலை மூடல் சம்பந்தமாக தொழிலாளர் சமரச அதிகாரி முன்பு சமரச பேச்சுவார்த்தை நடந்தது. அந்த meeting-ல் நாங்கள் மூன்று பேரும் கலந்து கொண்டோம், தொழிற்சங்கம் கலந்த கொள்ளவில்லை. அந்த meeting-ல் சமரச அதிகாரி முன்பு நாங்கள் வேலை கேட்டோம், ஆனால், நிர்வாகம் Settlement பண்ணி தருவதாக சொன்னார்கள்.

சமரச நடவடிக்கையின் போது, எங்கள் தரப்பு என்ன சொன்னோம், நிர்வாகம் தரப்பு என்ன சொன்னார்கள் என்பதை எழுதி கையெழுத்து வாங்கினர். சமரச நடவடிக்கையின் போது ஒரு வருடத்திற்கு 90 நாள் சம்பளத்தை சம்பள அடிக்க தொகையாக தர வேண்டும் என்று கேட்டோம். அந்த demand-க்கு நிர்வாகம் கொடுக்க முடியாது என்று சொல்லி ஒரு குறிப்பிட்ட தொகை தருவதாக சொன்னார்கள் என்றால் சரிதான்”.

From the above evidence of PW.1 to PW.3, it is clear that the petitioners have admitted the fact that they have demanded only the compensation of 90 days salary for year of service for which the respondent management has not accepted and therefore, the respondent is liable to pay compensation for the non-employment of the petitioners. Therefore, the petitioners are entitled for the compensations under the provision of the Industrial Disputes Act.

17. To fix the compensation to be given to the petitioners, the documents and records are perused. On perusal of the records, it is learnt to this Court that both the parties have not filed any documents to show the monthly salary of the petitioners but, it is clear from the evidence that the first petitioner has joined the service of the respondent company on 5-2-2000 and the second petitioner joined the service of the respondent company on 13-11-2001 and the third petitioner joined in service on 17-4-2002. Since no evidence is before this Court regarding the salary of the petitioners, this Court cannot fix the compensation under Sec.25FFF of the Industrial Disputes Act. However, considering the period of service that the petitioners have been in service for more than 10 years in the respondent establishment and they become unemployed due to the closure of the factory, they have to be compensated. The respondent management is liable to pay compensation to the petitioners which was also agreed by the respondent at the time of conciliation. It is clear from the conciliation failure report-Ex.R12, the respondent management has come forward to pay compensation of ₹ 1,83,518.54, ₹ 1,69,925.00 and ₹ 1,44,418.38 to the petitioners 1 to 3 respectively. Considering the fact that the petitioners have admitted themselves in the cross examination that after the closure of the factory they have demanded only compensation of 90 days salary for a year from the respondent management and that the respondent himself come forward to pay the compensation before the Conciliation Officer as stated above and considering the other circumstances, this Court is inclined to fix the compensation of ₹ 2,25,000 each tentatively to the petitioners.

18. In the result, the petition is partly allowed and the industrial dispute raised by the petitioners over the non-employment is justified and the Award is passed by directing the respondent to pay compensation of ₹ 2,25,000 each to the petitioners for non-employment caused by the respondent management within one month from the date of this order and the petition is partly dismissed in respect of the claim of reinstatement and back wages. No cost.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 10th day of May, 2017.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal
Puducherry.

List of petitioner's witnesses:

- PW.1 — 2-4-2014 — D. Manikandan
PW.2 — 27-6-2014 — A. Kuppusamy
PW.3 — 27-6-2014 — K.R. Kumaravel
PW.4 — 17-10-2014 — V. Ravi

List of petitioner's exhibits:

- Ex.P1 — Confirmation letter issued by the respondent company in favour of the 1st petitioner.
Ex.P2 — Copy of the Identity Card of the 1st petitioner.
Ex.P 3 — The Settlement (agreement) arrived in between the respondent company and Pack Pattali Union and Sigma Pack Labour Union, dated 27-4-2011.
Ex.P4 — True copy of the complaint letter given by the 1st petitioner to the Labour Officer (Conciliation), Puducherry, dated 4-5-2012.
Ex.P5 — The notice of enquiry/conciliation issued by the Labour Officer (Conciliation), Puducherry to the 1st petitioner, dated 21-5-2012.
Ex.P6 — The letter sent by the respondent company to the 1st petitioner, dated 11-6-2012.
Ex.P7 — True copy of the reply letter, dated 21-6-2012 sent by the 1st petitioner to the respondent company's letter, dated 11-6-2012.

Ex.P8 — The acknowledgement card acknowledged by the respondent company, dated 22-6-2012.	Ex.P23 — True copy of the reply letter, dated 21-6-12 sent by the 2nd petitioner to the respondent company's letter, dated 11-6-2012.
Ex.P9 — True copy of the letter send by the 1st petitioner to the respondent company, dated 27-6-2012.	Ex.P24 — The acknowledgement card acknowledged by the respondent company, dated 22-6-2012.
Ex.P10 — The acknowledgement card acknowledged by the respondent company.	Ex.P25 — True copy of the letter sent by the 2nd petitioner to the respondent company, dated 27-6-2012.
Ex.P11 — The notice of enquiry/conciliation issued by the Labour Officer (Conciliation), Puducherry to the 1st petitioner, dated 26-9-2012.	Ex.P26 — The acknowledgement card acknowledged by the respondent company.
Ex.P12 — True copy of the letter send by the 1st petitioner to the PIO, Labour Department, Puducherry, dated 24-9-2012.	Ex.P27 — True copy of the letter sent by the 2nd petitioner to the PIO, Labour Department, Puducherry, dated 24-9-2012.
Ex.P13 — The acknowledgement card acknowledged by the PIO, Labour Department, Puducherry, dated 25-9-2012.	Ex.P28 — The acknowledgement card acknowledged by the PIO, Labour Department, Puducherry, dated 25-9-2012.
Ex.P14 — The information furnished by the PIO, Labour Department, Puducherry. to the 1st petitioner, dated 18-10-2012.	Ex.P29 — The information furnished by the PIO, Labour Department, Puducherry to the 2nd petitioner, dated 18-10-2012.
Ex.P15 — The report on failure of conciliation issued by the Labour Officer (Conciliation), Puducherry, addressed to the 1st petitioner, dated 22-1-2012.	Ex.P30 — The report on failure of conciliation issued by the Labour Officer (Conciliation), Puducherry, addressed to the 2nd petitioner, dated 22-1-2012.
Ex.P16 — The ESI medical treatment receipt (certificate), dated 25-6-12, 1-9-12, 11-1-13, 18-1-13, 8-8-13 (5 series)	Ex.P31 — Pay slip of the 2nd petitioner for the month of March, 2012.
Ex.P17 — Pay slip of the 1st petitioner for the month of February 2012.	Ex.P32 — Confirmation letter issued by the respondent company in favour of the 3rd petitioner.
Ex.P18 — Confirmation letter issued by the respondent company in favour of the 2nd petitioner.	Ex.P33 — Copy of the Identity Card of the 3rd petitioner.
Ex.P19 — Copy of the identity card of the 2nd petitioner.	Ex.P34 — True copy of the complaint letter given by the 3rd petitioner to the Labour Officer (Conciliation), Puducherry, dated 4-5-2012.
Ex.P20 — True copy of the complaint letter given by the 2nd petitioner to the Labour Officer (Conciliation), Puducherry, dated 4-5-2012.	Ex.P35 — The letter sent by the respondent company to the 3rd petitioner, dated 11-6-2012.
Ex.P21 — The notice of enquiry/conciliation issued by the Labour Officer (Conciliation), Puducherry to the 2nd petitioner, dated 21-5-2012.	Ex.P36 — True copy of the reply letter, dated 21-6-12 sent by the 3rd petitioner to the respondent company's letter, dated 11-6-2012.
Ex.P22 — The letter sent by the respondent company, to the 2nd petitioner, dated 11-6-2012.	Ex.P37 — The acknowledgement card acknowledged by the respondent company, dated 22-6-2012.

- Ex.P38 — True copy of the letter sent by the 3rd petitioner to the respondent company, dated 27-6-2012.
- Ex.P39 — The acknowledgement card acknowledged by the respondent company.
- Ex.P40 — True copy of the letter (application) sent by the 3rd petitioner to the PIO, Labour Department, Puducherry, dated 24-9-2012.
- Ex.P41 — The acknowledgement card acknowledged by the PIO, Labour Department, Puducherry, dated 25-9-2012.
- Ex.P42 — The information furnished by the PIO, Labour Department, Puducherry to the 3rd petitioner, dated 18-10-2012.
- Ex.P43 — The report on failure of conciliation issued by the Labour Officer (Conciliation), Puducherry and the same was addressed to the 3rd petitioner, dated 22-1-2012.
- Ex.P44 — Pay Slip of the 3rd petitioner for the month of March, 2012.
- Ex.P45 — RTI application in FORM-1, dated 23-9-2014 addressed to the Commercial Tax Officer-IAC, Commercial Taxes Department, Puducherry by the 1st petitioner.
- Ex.P46 — Supply of information in FORM-3, dated 7-10-2014 by the Commercial Tax Officer-TAG, Commercial Taxes Department, Puducherry to the 1st petitioner.

List of respondent's witness:

- RW.1 — 17-2-2016 V. Gobi

List of respondent's exhibits:

- Ex.R1 — Notice of closure displayed in the petitioner/respondent factory, dated 7-6-2012.
- Ex.R2 — Letter of intimation of closure sent to the Secretary (Labour), Government of Puducherry, dated 7-6-2012.
- Ex.R3 — Copy of the letter sent to the 1st petitioner with enclosure, dated 11-6-2012.
- Ex.R4 — Acknowledgement card signed by the 1st petitioner.

- Ex.R5 — Letter sent to the 2nd petitioner with enclosure, dated 11-6-2012.
- Ex.R6 — Acknowledgement card signed by the 2nd petitioner.
- Ex.R7 — Letter sent to the 3rd petitioner, dated 11-6-2012.
- Ex.R8 — Acknowledgement card signed by the 3rd petitioner, 13-6-2012.
- Ex.R9 — Letter with returned cheque sent by the 1st petitioner, dated 27-6-2012.
- Ex.R10 — Letter with returned, cheque sent by the 2nd petitioner, dated 27-6-2012.
- Ex.R11 — Letter with returned cheque sent by the 3rd petitioner, dated 27-6-2012.
- Ex.R12 — Conciliation failure report, dated 22-1-2013.
- Ex.R13 — Copy of the letter sent to the Commercial Taxes Department, dated 6-11-2015.
- Ex.R14 — Copy of the letter to the Chief Inspector of Factories and Boilers, dated 11-12-2015.
- Ex.R15 — Copy of the letter sent to the Directorate of Industries and Commerce, dated 16-12-2015.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal
Puducherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 113/Lab./AIL/T/2017,
Puducherry, dated 10th July 2017)

NOTIFICATION

Whereas, the Award in I.D. (L)No. 34/2013, dated 12-5-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of M/s. Packaging India Private Limited, Pillaiyarkuppam Post, Puducherry and Thiru P. Pragalathan, Puducherry over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's

G. O. Ms. No. 20/91/Lab./L, dated 23-5-91, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

E. VALLAVAN,
Commissioner of Labour -cum-
Additional Secretary to Government, (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY**

Present : Thiru G.Thanendran, B.Com., M.L.,
Presiding Officer,

Friday, the 12th day of May, 2017

I.D. (L) No. 34/2013

P. Pragalathan, . . Petitioner
S/o. Pandurangan,
Puducherry.

Versus

The Managing Director, . . Respondent
M/s. Packaging India Private Limited,
Kandanpet Village,
Pillaiyarkuppam Post,
Bahour Commune, Puducherry.

This industrial dispute coming up before me for final hearing on 29-4-2017 in the presence of Tvl. R.T. Shankar and Thamotharan. Counsel for the petitioner and Tvl. L. Swaminathan and I. Ilankumar, Counsel for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This industrial dispute has been referred by the Government as per the G. O. Rt. No. 103/AIL/LAB/J/2013, dated 17-7-2013 for adjudicating the following:-

(i) Whether the dispute raised by the petitioner Thiru P. Pragalathan against the management of M/s. Packaging India Private Limited, Puducherry over his non-employment is justified or not?

(ii) If justified, to what relief, the petitioner is entitled to ?

(iii) To compute the relief, if any awarded in terms of money, if it can be so computed?

2. The brief averments of the petition filed by the petitioner are stated as follows:-

The petitioner has joined in the respondent establishment on 26-6-1998 as Junior Operator in the Pro-slitting Department and his last drawn salary is ₹ 9565-00 and the petitioner is also holding the post of Vice-President in Packaging India INTUC Union and he had been in service without any remarks for about 12 years but, on 31-10-2010 without any *prima-facie* complaint the respondent management has temporarily suspended the petitioner from his service and has issued a charge memo on 25-1-2011 and for which the petitioner has given his explanation to the charge memo on 26-1-2011 before the Manager of the respondent factory but, the respondent management has not accepted his explanation and conducted domestic enquiry against him and in the domestic enquiry, no opportunity was given to the petitioner and the enquiry was conducted with the bias in favour of the management and the management threatened the workers to admit the charges and has assured the petitioner that if, the petitioner admits the charges, the management will provide employment to the petitioner and believing the assurance given by the management the petitioner and his colleagues namely T. Ramesh, E. Bakthavachalam, V. Iyyanar, Alexpeter and K. Narayanan endorsed the admission but, no enquiry was conducted properly and the Enquiry Officer has submitted a report finding guilty of the petitioner as well as his colleagues on the ground of admission of the employees and on the foot of the report the management has issued a show cause notice on 12-3-2011 and the petitioner has sent a reply letter to the show cause notice on 14-3-2011 for which the respondent management has not accepted the explanation of the petitioner and passed an order on 31-5-2011 and the respondent has wantonly terminated the services of the petitioner since, he was functioning as Vice-President of the union and has taken false disciplinary action against the petitioner along with his colleagues.

(ii) Though in the enquiry, it was found all the employees are found guilty except the petitioner and one Narayanan all others would not have been terminated from service and their temporary suspension was revoked and therefore, the refusal of employment to the petitioner and the said Narayanan is totally against the law and is illegal and against the natural justice. Though the petitioner has approached the respondent management after his termination on 31-5-2011 in person and through letter of requisition, he has not been given employment and that therefore, the petitioner has submitted a conciliation on 31-8-2012 with the Conciliation Officer and the conciliation proceedings was taken and both the petitioner and the

respondent has been summoned to appear on 18-10-2012 at about 3.00 p.m., though the petitioner has appeared on 18-10-2012 as summoned in the notice, the respondent has not appeared before the Conciliation Officer and therefore, the conciliation proceedings were adjourned to 9-11-2012 and on which date also the petitioner was appeared and the respondent management has not appeared and hence, the personal hearing was adjourned to 28-11-2012 and on which date also the respondent management has not appeared and subsequently, the case was adjourned to 19-2-2013 and on which date the management was appeared and filed a false objection and the conciliation was failed and that therefore, the Conciliation Officer submitted a report to the Government on 26-4-2013 and this reference has been sent before this Court and in the domestic enquiry the respondent management has not given any opportunity to the petitioner and the act of the respondent management on bias with the petitioner and the termination of the petitioner is against the law and against the natural justice and that therefore, the petitioner prayed this Court to set aside the termination order passed by the respondent management against the petitioner and to direct the respondent to reinstate the petitioner with back wages.

3. The brief averments of the counter filed by the respondent are stated as follows:-

The petitioner was employed as the Slitting Operator in the management and was suspended in contemplation of disciplinary proceedings through order, dated 31-10-2010 and that the petitioner was served with a charge sheet under Ref. No. PIPL/IR/JAN/SUS/2011/09, dated 25-1-2011 and was directed to explain in writing within 48 hours from the receipt of the charge sheet and for which the petitioner had submitted his written explanation on 26-1-2011 and upon inconsistent reply, the management had ordered for an enquiry through order, dated 29-1-2011 appointing Mr. G.K. Govindasamy, Advocate, Puducherry as the Enquiry Officer to enquire into the charge sheet, dated 25-1-2011 and Mr. R.V. Sathyanarayanan, Manager - HR and Admin. as the Presenting Officer in the enquiry and enquiry was conducted and upon admission of charges by the petitioner in the enquiry proceedings, the enquiry was closed and based on the enquiry report, the management had dismissed the petitioner *vide* order, dated 30-5-2011 and that having accepted the charge, the petitioner is now making a hue and cry by shedding crocodile tears as though he is innocent and leniency should be bestowed on him and therefore, the management rejects the entire

allegations of the claim petition by reiterating that the order of dismissal, dated 30-5-2011 holds good and cannot be re-considered by the management and prays for dismissal of claim petition filed by the petitioner.

4. On the side of the petitioner, PW.1 was examined and Ex.PI to Ex.PII were marked. On the side of the respondent, no oral evidence has been let in and no documents has been marked. Argument heard. Records are perused.

5. *The point for consideration is:*

Whether the dispute raised by the petitioner against the respondent management over his non-employment is justified or not.

6. The Government has made this reference to this Tribunal to decide the dispute raised by the petitioner against the respondent management over his non-employment is justified or not. On this aspect, the records and evidence are carefully perused. In order to prove his case, the petitioner has examined himself as PW1 and exhibited Ex.P1 to Ex.P11. From the evidence and exhibits marked on the side of the petitioner, it is clear that the petitioner was temporarily suspended from the respondent management on 31-10-2010 and a charge memo was given by the respondent to the petitioner on 25-1-2011 and the Enquiry Officer was appointed and the domestic enquiry was conducted by the said Enquiry Officer in which the Enquiry Officer has found mis-conduct of the petitioner and a show cause notice was given and finally the petitioner was terminated from service on 31-5-2011. But, it is the evidence of petitioner PW.1 that he has not been given any opportunity to put forth his case in the domestic enquiry and the enquiry was conducted in a biased manner.

7. While the case was posted for order today both the parties have filed a compromise memo along with the settlement arrived at between them stating that on 11-5-2017 both the parties have mutually agreed and entered a Memorandum of Settlement. The copy of the said Memorandum of settlement, dated 11-5-2017 and the copy of the receipt is also filed along with the memo which would reveal the fact that the management and the petitioner has amicably entered into the settlement on 11-5-2017 and the petitioner has received a sum of ₹ 5,30,710 for his employment benefits as one time settlement including gratuity and therefore, the matter has been settled between the parties by entering the settlement and hence, the compromise is to be recorded and the Award is to be passed in terms of settlement and a copy of the settlement is to be attached as part and parcel of the Award.

8. In the result, the petition is partly allowed and the Award is passed in terms of the Memorandum of settlement arrived at between the parties on 11-5-2017 and the same is recorded and the said Memorandum of settlement shall be attached as part and parcel of the Award. No cost.

Dictated to the stenographer, transcribed by her, corrected and pronounced by me in the Open Court on this the 12th day of May, 2017.

G. THANENDRAN,
Presiding Officer
Industrial Tribunal-cum-Labour Court,
Puducherry.

List of petitioner's witness:

PW. 1—7-10-2014 - Pragalathan

List of petitioner's exhibits:

Ex.P1 31-10-2010 Copy of the temporary suspension order.

Ex.P2 25-1-2011 Copy of the Charge memo.

Ex.P3 29-1-2011 Copy of the order for appointment of Enquiry Officer.

Ex.P4 14-2-2011 Copy of the enquiry proceedings note.

Ex.P5 9-3-2011 Copy of the report of the Enquiry Officer.

Ex.P6 12-3-2011 Copy of the show cause notice.

Ex.P7 31-5-2011 Copy of the termination order.

Ex.P8 23-12-2010 Copy of the proceedings of domestic enquiry conducted against co-worker Ramesh.

Ex.P9 4-3-2011 Copy of the Enquiry report of Ramesh.

Ex.P10 3-5-2011 Copy of the order passed against Ramesh.

Ex.P11 26-4-2013 Copy of the Conciliation failure report.

List of respondent's witnesses: Nil

List of respondent's exhibits: Nil

G. THANENDRAN,
Presiding Officer
Industrial Tribunal-cum-Labour Court,
Puducherry.

புதுச்சேரி அரசு

மாவட்ட துணை ஆட்சியர் (வருவாய்) அலுவலகம்

எண் 8895, 7313/மாதுஆ. காரை/05/2015, 16.

அறிவிப்பு

[புதுச்சேரி நில மானிய விதி 1975, விதி 60(iii)-ன் கீழ்]

புதுச்சேரி அரசால் தங்களுக்கு ஒப்படை செய்யப்பட்ட கீழ்க்காணும் நிலவிவரங்களுடைய இடத்தில் தாங்கள் வீடு கட்டாமலோ அல்லது குடியிருக்காமலோ இருப்பதன் மூலம் தங்களுக்கு வழங்கப்பட்ட நிலஒப்படை ஆணையில் காணப்படும் நிபந்தனை (2)-ஐ தாங்கள் கடைபிடிக்காததை அறியவும்.

வரிசை எண்	ஒப்படை பெற்றவரின் பெயர் மற்றும் முகவரி	மறு அளவை எண்	நிலத்தின் பரப்பளவு	நில ஒப்படை ஆணை எண்
(1)	(2)	(3)	(4)	(5)
24-கீழவெளி வருவாய் கிராமம்			H. A. Ca.	
1 ஜெய்தூண்பீனி, க/பெ. அபுபக்கர்		G/4/284	0 00 41	166/07-08

ஆதலால், இவ்வறிவிப்பு கிடைக்கப்பெற்ற 15 நாட்களுக்குள் தங்களுக்கு வழங்கப்பட்ட இடத்தினை ஏன் அரசே திரும்ப எடுத்துக்கொள்ளக்கூடாது என்பதற்கான காரணங்களை இவ்வலுவலகத்திற்குத் தெரிவிக்கும்படி கேட்டுக்கொள்ளப்படுகிறது. இது தொடர்பாக தாங்கள் கருத்து ஏதேனும் தெரிவிக்கவிரும்பினால், மேற்குறிப்பிட்ட காலக்கெடுவிற்குள் கீழ் கையொப்பமிடும் அதிகாரியிடம் முறையிடலாம்.

குறிப்பிட்ட காலக்கெடுவிற்குள் தாங்கள் நேரிலோ அல்லது கடிதம் வாயிலாகவோ தங்களது கருத்தைத் தெரிவிக்காவிடில் தங்களிடம் கருத்துக்கூற ஏதும் இல்லை எனக்கருதப்பட்டு இதற்குமேல் எந்த அறிவிப்புமின்றி தங்களுக்கு வழங்கப்பட்ட நில ஒப்படை ஆணை ரத்து செய்யப்படும்.

காரைக்கால், 2017 ஐரோ கௌஸ் மீ 27 வ.

S.K. பன்னீர்செல்வம்,
துணை ஆட்சியர் (வருவாய்).